

SENATE BILL REPORT

HB 1042

As of March 11, 2009

Title: An act relating to notices of dishonor.

Brief Description: Concerning notices of dishonor.

Sponsors: Representatives O'Brien, Warnick, Goodman, Rodne, Kelley and Williams.

Brief History: Passed House: 2/13/09, 95-0.

Committee Activity: Judiciary:

SENATE COMMITTEE ON JUDICIARY

Staff: Lidia Mori (786-7755)

Background: Federal and state laws govern collection agencies. Under the Federal Fair Debt Collection Practices Act, a debtor has 30 days to dispute a debt from the date the debtor receives the notice of collection. The collection agency may not take certain action within that 30-day period. Under state law, a collection agency sends a debtor a notice of dishonor. A debtor has 33 days from the date the notice is postmarked or personally delivered before the debtor becomes liable for certain costs and fees and before the collection agency may take court action to collect the debt. If court action is taken, the debtor is also liable for reasonable attorneys' fees plus three times the face amount of the check or \$300, whichever is less. The notice of dishonor must be in a form prescribed in the statutes. The notice specifies for the debtor the fees and costs that may be added and includes a cautionary statement about other consequences that might occur if the amount is not paid.

Summary of Bill: The debtor is presumed to have received the notice of dishonor three days from the date the notice is mailed.

A statement is added to the notice of dishonor form clarifying that the notice to the debtor, that he or she may be liable for court costs and attorney fees in the event of legal action, is advisory only and should not be construed as a representation or implication that legal action is contemplated or intended.

Appropriation: None.

Fiscal Note: Not requested.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.